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Vienna, 12-16 May 2014
Item 4 of the provisional agenda*
Thematic discussion on international cooperation in criminal matters

Statement submitted by the International Sociological Association, a non-governmental organization in consultative status with the Economic and Social Council**

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

* E/CN.15/2014/1.

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Thematic discussion on international cooperation in criminal matters

The International Sociological Association (www.isa-sociology.org) was founded in 1949 under the auspices of UNESCO. The goal of the ISA is to represent sociologists everywhere, regardless of their school of thought, scientific approaches or ideological opinion, and to advance sociological knowledge throughout the world. Its members come from 167 countries. The ISA has partnered with Criminologists Without Borders (http://www.criminologists-without-borders.org) to produce a review of the scientific literature on this year's theme. Criminologists Without Borders is a registered non-profit organization composed of criminologists, researchers, professors and those working in the field which provides objective information and research to inform policy and programs dealing with crime and criminal justice. It offers a neutral forum for the pursuit of ideas and practices informed by evidence.

This statement summarizes recent research published in scientific books and academic journals. A full handout will be available at the start of the CCPCJ 23rd Session, including extracts from the research summarized herein.

Knowns and Policy Recommendations

Trends in International Police Cooperation

- Despite the creation of supranational agencies such as EUROPOL and INTERPOL fostering multilateral exchanges, most of international police cooperation happens at the bilateral level often undermining larger collaborative efforts. A major consequence of this trend is the duplication of efforts and wasting of resources from several nation states. Promoting multilateral police cooperation can help to build a community of practice, standardization of information exchange processes, and stronger legal framework.

- Studies available mainly cover police and judiciary cooperation between core countries located in North America, Europe, Asia/Pacific regions. The review of literature on police cooperation reflects the rapid growth for more international security in the wake of the creation of free trade zones and economic treaties such as Maastricht, NAFTA, and ASEAN. The downside of this "North-North" hemisphere police cooperation trend is that little is known on what is happening in "North-South" or "South-South" judiciary relations. This situation also implies that nation states that are not part of the core-industrialized countries are left aside, creating critical "black holes" in the evolving international policing governance model. More field studies are required to better understand how police and judicial cooperation happens between non-core industrialized countries.

Legal Framework

- Differences in nation states' legal systems remain certainly one of the most important challenges to international police cooperation. Some initiatives such as the creation of EUROJUST have provided new tools and solutions to the conduct of

transnational investigations but deep differences remain between countries that make police cooperation inconsistent.

- The practicalities of international police cooperation happen often in a legal vacuum where state and non-state actors try to assert their influence and enforce domestic laws in the global arena. This reality has raised issues and continues to challenge basic principles of sovereignty and subsidiarity.

- Several nation states refrain or limit police cooperation with some countries in order to protect the legal rights of their own citizens. For instance, democratic countries have limited police cooperation with non-democratic regimes due to legal differences related to human rights, rule of law, and due process rights.

- During the past decade, barriers related to the exchange of personal information between national police forces have considerably weakened, but there are increasing concerns about protection of personal data and civil liberties as personal data gathering increases.

- International police cooperation activities are mainly taking place under Mutual Legal Assistance Treaties (MLATs) between two countries. Some occurs through supra-national entities but when formal channels do not exist, international police cooperation still happens informally between police practitioners with less accountability.

Policy issues

- At the international level, police cooperation tends to happen under foreign policies related to drug trafficking and other transnational organized crimes. The doctrine of "it takes a police network to tackle a criminal network" prioritizes high profile crimes and sometimes overlooks other pressing issues such as white-collar crime or domestic violence.

- Despite the fact that numerous nation states are engaged in international police cooperation, there are few common policies related to model practices, strategy, and training which undergirds effective police cooperation. This lack of standards and norms creates misunderstandings as well as false expectations among nation states.

- Currently, international police cooperation mostly takes place between countries' national law enforcement agencies and does not integrate non-state actor such as privately own companies (e.g., banks and high tech companies). Nonetheless, these actors often play a central role in international investigations related to money laundering and Internet frauds but are not integrated or recognized formally as actors of police cooperation.

Unknowns

- International Police Cooperation — Performance Indicators. We do not have adequate knowledge of the effectiveness of international police cooperation. Several national police organizations report on some outcomes from international operations

(arrest and seizures) but this is only a very small portion of the police activities conducted at the international level.

- Best Practices. We do not know which cooperation practices are more effective and more respectful of legal frameworks. Evaluative research is highly needed in that sector.

- Global Policing Oversight. There is not adequate knowledge about possible misconduct and abuse resulting from police cooperation efforts. There is no independent civilian oversight organization to scrutinize international police cooperation activities.

- Training and selection process. Little is known about the preparedness of those who participate in international police cooperation. For example, some countries have a non-transparent nomination process for their police representatives, while others require a thorough selection process based on career achievements and specific skills sets.

- Organized Crime Adaptation. At national level, several studies have been conducted on organized crime adaptability to police operations/investigation by using counter-measures. We don't have good information about the counter-measures employed by organized crime to circumvent strategic initiatives such as EUROPOL's Joint Investigation Teams.

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Commission on Crime Prevention and Criminal Justice
Twenty-second session
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Agenda item 6
Use and application of United Nations standards and norms in crime prevention and criminal justice

Joint statement submitted by the American Civil Liberties Union, Amnesty International, Centro de Estudios Legales y Sociales, Conectas Direitos Humanos, Centro Regional de Derechos Humanos y Justicia de Género, the International Commission of Catholic Prison Pastoral Care, the Friends World Committee for Consultation, and Penal Reform International, non-governmental organizations in consultative status with the Economic and Social Council*

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

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Statement

The above-mentioned non-governmental organizations submit this statement relating to the revision process of the United Nations Standard Minimum Rules for the Treatment of Prisoners and the draft resolution tabled on this process by Argentina, Ecuador, Nicaragua, Norway, Poland, South Africa, Spain and Thailand (E/CN.15/2014/L.9).

We welcome the continued effort to bring the United Nations Standard Minimum Rules into the 21st Century, the progress made in the process so far and the increasing cross-regional support for the revision by Member States.

We value the acknowledgment by Member States in the "Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World" that an effective, fair and humane criminal justice system needs to be based on the commitment to uphold the protection of human rights in the administration of justice and stressing the value of United Nations standards and norms in designing and implementing criminal justice policies, laws, procedures and programmes.

We believe that the revision of the Standard Minimum Rules provides a historic opportunity to this end.

The revision of the Rules, which have become a benchmark for the treatment of incarcerated persons and a blueprint for national prison legislation and regulation, allows for the incorporation of human rights standards and good prison management practice developed in the 60 years since their adoption, and provides a crucial tool in improving prison conditions, in upholding the human dignity of detainees and in establishing effective, fair and humane criminal justice systems.

In order to achieve these goals, any changes to the Rules must not lower any of the existing standards, and we welcome the strong consensus on this principle in previous resolutions of the Crime Commission, ECOSOC and the United Nations General Assembly.

In this regard, we also point to Human Rights Council resolution A/HRC/24/12 of 23 September 2013 which reiterates "that any changes should not lower any existing standards but should reflect recent advances in correctional science and best practices as well as human rights standards" (OP 16) and to the resolution of the United Nations General Assembly on "Torture and other cruel, inhuman or degrading treatment or punishment" A/RES/68/156 (OP 38), equally referring as a benchmark to "recent advances in correctional science and best practices as well as international human rights obligations and commitments of States".

The undersigned organizations therefore stress that revisions need to reflect advances in correctional science and good prison management, but also in human rights standards, and propose the amendment of OP 6 of the draft resolution in this regard.

Since many of the standards referred to have been developed in the area of human rights, we strongly encourage Member States to include in their delegations at any subsequent inter-governmental meeting not only experts from the correctional

science field, but also human rights experts, and suggest the incorporation of respective text in OP 12 of the draft resolution.

We note the positive inter-agency cooperation in the process so far, interconnecting standards and expertise in criminal justice as well as human rights, and believe that the input of United Nations agencies and bodies with a mandate to protect the rights and dignity of detainees forms part of the historic opportunity the revision process provides.

In this regard, we particularly welcome the report of the Special Rapporteur on torture submitted to the United Nations General Assembly 2013 (United Nations Doc. A/68/295 of 9 August 2013), providing guidance on necessary changes in order to fulfil the obligation to prevent torture and other ill-treatment, and the input and participation of other key human rights bodies and institutions such as the Office of the High Commissioner for Human Rights, the Committee Against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, the Inter-American Commission on Human Rights and the World Health Organization.

We appreciate the participation of civil society organizations in the open-ended inter-governmental expert group meetings, and believe that their continuing participation and sharing of expertise and practical experience is a valuable contribution to a thorough and effective revision of the Rules.

As each of these actors has unique and important expertise to bring to the task of revising the Rules, we propose to strengthen the language of OP 7 of the draft resolution, inviting relevant United Nations bodies and agencies to contribute to the process and to participate at expert meetings, as also reflected in the General Assembly resolution 65/230 that initiated the process by requesting an open-ended intergovernmental Expert Group.

The undersigned organizations call on Member States to adopt a resolution at the 23rd session of the United Nations Commission on Crime Prevention and Criminal Justice, which includes the following elements:

- Extending the mandate of the open-ended Inter-governmental Expert Group to continue negotiations on the revision of the Standard Minimum Rules in the areas identified within the process (OP 8);
- Encouraging Member States to include in their delegation at the next meeting experts from both the correctional science field and human rights (OP 12);
- Allowing for the participation of all relevant stakeholders in any next Expert Group meeting, including United Nations institutions and human rights bodies and civil society organizations, in order to continue to benefit from their expertise and practical experience (OP 7);
- Reiterating that any changes to the Standard Minimum Rules must not lower any of the existing standards, but should reflect advances in correctional science and good prison management as well as human rights standards (OP 6).